

MINUTES OF FEBRUARY 2, 2015

The regular meeting of the Sussex County Board of Adjustment was held on Monday, February 2, 2015, at 7:00 p.m. in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Callaway presiding. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Brent Workman, Mr. Jeff Hudson, and Mr. Norman Rickard, with James Sharp – Assistant County Attorney and Vince Robertson – Assistant County Attorney, and staff members, Mr. Lawrence Lank – Director of Planning and Zoning, and Mrs. Jennifer Norwood – Recording Secretary.

Motion by Mr. Rickard, seconded by Mr. Mills, and carried unanimously to approve the Revised Agenda with Case No. 11504 – Loblolly, LLC under Old Business being moved to the beginning of the Agenda. Motion carried 5 – 0.

Mr. Sharp read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

OLD BUSINESS

Case No. 11504 – Loblolly, LLC – west of Coastal Highway (Route One) and north of Route 5 (Union Street Extended) (911 Address: None Available) (Tax Map I.D. 2-35-7.00-43.00)

An application for a special use exception to place two (2) off-premise signs and for variances from the maximum square footage requirement, height requirement, side yard setback requirement, and the minimum separation requirement between off-premise signs.

Mr. Sharp recused himself from participating. Mr. Robertson was available to the Board for any questions they may have during discussion, since Mr. Sharp recused himself from discussion due to a conflict. Mr. Sharp left the Chambers during the discussion.

The Board discussed the hearing, which has been tabled since January 26, 2015.

Mr. Mills stated that the proposed billboards provide the best use of this property; that the restrictions implemented by the Delaware Department of Transportation (“DelDOT”) create an exceptional practical difficulty to the Applicant; and that the Applicant is looking for relief to use the commercially zoned property.

Mr. Hudson stated that he is in agreement with Mr. Mills; that the odd shape and restrictions limit its improvement and possibility to be developed in strict conformity with the Sussex County Zoning Ordinance; that the Property is within a commercial area; and that his concerns about vacant billboards had been addressed.

Mr. Rickard stated that he feels the Board should deny the Application; that the opposition testified that the use will substantially adversely affect the neighboring and adjacent properties;

that the request for six (6) variances is extreme; that the Applicant is creating its own difficulty and hardship; that he feels the approval will set a precedent; and that the Applicant could build a store on the Property.

Mr. Workman stated that he does not feel the proposed billboards should exceed the maximum square-footage requirement; that he feels the proposed size of the billboards will be too large for that area; and that he feels the Applicant may have known of the restrictions on the Property before purchasing.

Mr. Lank stated that the Applicant will need to request a variance from the separation requirement from public lands.

Mr. Robertson stated that the Applicant could reapply for the additional variance.

Mr. Lank stated for the record that the Applicant is requesting a special use exception for two (2) billboards; that one billboard will be double-sided and one will be single-sided; a variance of 600-square-feet from the 300-square-feet for the double-sided billboard; a variance of 300-square-feet from the 300-square-feet for the single-sided billboard; a variance of fifteen (15) feet from the maximum twenty-five (25) feet height requirement for both proposed billboards; a variance of forty (40) feet from the fifty (50) feet side yard setback requirement for the proposed single-sided billboard; and a variance of fifty (50) feet from the 300-foot separation requirement between billboards are being requested.

Mr. Workman stated that he had no objection to the height variance request since the Applicants are not able to cut down the existing trees on adjacent lands.

Mr. Mills stated that he would move that the Board recommend approval in part and denial in part of Special Use Exception/Variance Application No. 11504. Mr. Mills moved that the requested special use exception to place two (2) billboards be approved based on the record made at the public hearing because the use does not substantially affect adversely the uses of the adjacent and neighboring properties.

Mr. Mills moved that the height variance, side yard variance, and the variance from the required separation requirement between billboards be approved based on the record made at the public hearing and for the following reasons:

1. The unusual shape and narrowness of the Property make it unique;
2. The Property cannot be developed in strict conformity with the Sussex County Zoning Code;
3. The Delaware Department of Transportation ("DelDOT") restrictions create an exceptional practical difficulty;
4. The variances will not alter the essential character of the neighborhood; and

5. The variances sought are the minimum variances necessary to afford relief.

As part of his Motion, Mr. Mills, stated that the variances for additional square-footage for both proposed billboards be denied based on the record made at the public hearing and for the following reason:

1. The exceptional practical difficulty for those variances has been created by the Applicant.

Motion by Mr. Mills, seconded by Mr. Workman, and carried that the special use exception and variances be **granted for the height, side yard, and separation requirement between billboards and denied for the square-footage variances.** Motion carried 4 – 1.

The vote by roll call; Mr. Hudson – yea, Mr. Rickard – nay, Mr. Workman – yea, Mr. Mills – yea, and Mr. Callaway – yea.

PUBLIC HEARINGS

Case No. 11513 – Dale Fulton – southwest of State Road (Road 272) 200 feet north of Ramp to Route One and across from New Castle Street Extended which is within the City of Rehoboth Beach (911 Address: 20314 State Road, Rehoboth Beach, DE) (Tax Map I.D. 3-34-19.08-149.00-Unit 5)

An application for a variance from the rear yard and side yard setback requirements.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Mr. Lank stated that the Planning and Zoning Commission previously determined that the lot is not a through lot since no access is available to Route One at this location; and that the variance for the rear yard setback requirement is not necessary.

Dale Fulton was sworn in and testified requesting a variance of four (4) feet from the ten (10) feet side yard setback requirement for a proposed swimming pool; that he purchased the Property in August 2014; that his contract for purchase included plans for a swimming pool; that the Homeowners Association has approved the request for the pool; that the rear of the Property is strangely shaped and, in order to place the proposed pool, a variance is needed; that the shape of the yard creates the difficulty; that the Property was designed by someone else; that a pool could be built on the Property but it would be so small that it would not be worth it to construct; that his neighbors support the pool; that he will minimize the impact of the pool on his neighbors; that the Property is unique; that the proposed swimming pool will measure 10.5 feet by 20 feet; that the pool cannot be located elsewhere on the Property due to the existing screen porch and shed; that

the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code; that he has the consent from his neighbors to access their driveway during construction; that the use will not impair the development or uses of neighboring and adjacent properties; that the variance will not alter the essential character of the neighborhood; and that the angle of the lot limits placement of the proposed swimming pool.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11513 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique is shape;
2. The variance is necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicant;
4. The variance will not alter the essential character of the neighborhood; and
5. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11518 – Two Farms, Inc. – at the southwest corner of Route One (Coastal Highway) and Route 24 (John J. Williams Highway) (911 Address: None Available) (Tax Map I.D. 3-34-12.00-165.00, 166.00, 167.00, 168.00, & 170.00)

An application for a special use exception to place an off-premise sign and for variances from the front yard requirement, side yard requirement, the distance from a dwelling requirement, the maximum height requirement and the maximum square footage for an off-premise sign requirement.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Jeffrey Bainbridge and Garth Jones were sworn in to testify about the Application. David Hutt, Esquire, presented the case to the Board on behalf of the Applicant and submitted exhibits for the Board to review.

Mr. Hutt stated that the Applicant is requesting a special use exception to place an off-premise sign, a variance of seven (7) feet from the sixty (60) feet front yard setback requirement

for a proposed canopy, a variance of 46 feet from the fifty (50) feet side yard setback requirement for an off-premise sign, a variance of 54 feet from the 300 feet separation requirement from a residential dwelling, a variance of 43 feet from the 300 feet separation requirement from a residential dwelling, a variance of 32 feet from the 300 feet separation requirement from a residential dwelling, a variance of 14 feet from the 25 feet maximum height requirement for an off-premise sign, and a variance of 300 square-feet from the 300 square-feet maximum allowable square footage for an off-premise sign; that there has been an off-premise sign, a gas station and an appliance store on the Property for years; that Royal Farms has purchased the Property; that the Applicant intends to update the gas station and billboard; that the Property is located at the intersection of Route 24 and Route 1, which is one of the busiest intersections in Sussex County; that a McDonald's, Rehoboth Mall, and other businesses are located nearby; that the Property consists of five (5) parcels which previously housed the gas station, billboard, and Millman's Appliances; that the Property fronts on three (3) roads; that the Property is unique because a fuel spill occurred on the Property in the 1970s which has made development of this property difficult; that the Applicant has a Brownfield agreement with the Department of Natural Resources and Environmental Control ("DNREC") to investigate and remediate the environmental concerns; that the Property has been vacant for some time due to the environmental issues; that the Property is zoned commercial which is the appropriate zoning for a gas station and a billboard; that the Property currently has seven (7) entrances to the existing parcels; that the existing billboard has been on the Property since the 1980s; that the current gas station sits 37 feet from Route 1 and Millman's Appliances sits 45 feet from Route 1; that the setback off of Route 1 is 60 feet; that the Applicant intends to demolish the current structures on the Property; that a new building will be built on the Property; that the proposed building and gas pumps will meet the required setback requirements; that the existing off-premise sign needs to be relocated and replaced; that the proposed site plan for the Property will only have two (2) entrances; that four (4) houses are within 300 feet of the proposed billboard; that the proposed canopy over the gas pumps requires a variance; that fuel pumps can be placed within twenty (20) feet of Route 1 but canopies over the fuel pumps cannot be within twenty (20) feet of Route 1; that the proposed location of the canopy allows room for larger vehicles, such as tanker trucks and motor homes, to navigate the Property; that the Applicant used its urban scale model in developing this site to minimize the need for the variance for the canopy; that the billboard will be relocated; that Clear Channel owns the existing billboard; that the proposed billboard will be a steel monopole structure; that replacing the existing billboard with an upgraded structure is more feasible than disassembling and reassembling the existing billboard; that the proposed billboard will be the same height and size as the existing billboard; that the existing billboard has two poles; that there are fourteen (14) billboards in the area of similar height and size; that similar variances have been granted for billboards in the surrounding area; that the billboard will not substantially affect adversely the uses of neighboring and adjacent properties; that this area is a busy, commercial area; that the uses will be similar to the current uses of the Property; that billboards, similar to the one proposed, are common for the area; that the Property is unique due to the three (3) road frontages and the environmental issues which make the Property difficult to develop; that the Property cannot be developed in strict conformity with the Sussex County Code; that the variances will enable reasonable use of the

Property; that the exceptional practical difficulty was not created by the Applicant; that the variances will not alter the essential character of the neighborhood; that the gas station and billboard are consistent with the neighborhood; that the use is not detrimental to the public welfare; that the billboard is currently leased and will not be vacant; that the variances are the minimum variances to afford relief; and that the Applicant has chosen a store design and will angle the pumps on the Property to best accommodate the area.

Mr. Bainbridge, under oath, confirmed the statements made by Mr. Hutt.

Garth Jones testified that the Applicant has entered into a Brownfield's Agreement with the Delaware Department of Natural Resources and Environmental Control ("DNREC"); that the existing fuel tanks will be removed and replaced with state of the art fuel tank; and that the proposed location of the billboard will not interfere or block neighboring signs or businesses.

Mr. Hutt stated that the billboard will not block the signage of the neighboring commercial property.

Sandra Hinsch was sworn in and testified in opposition to the Application and testified that she is a resident of Truitt's Midway Development; that the residential community is to the rear of the Applicant's property; that she is concerned about the location of the entrances and increased traffic; and that the existing entrances used by Millman's Appliance were only used for delivery and loading.

James Yingling was sworn in and testified in opposition to the Application and testified that he is also concerned about the traffic issues in the area; and that he questioned the size of the proposed billboard.

In rebuttal, Mr. Hutt, stated that DNREC still has to finish investigations and develop a plan based on their findings.

Mr. Jones testified that the entrance on Truitt Avenue was moved to the far south of the Property to accommodate DelDOT requirements; that, per DelDOT requirements, the entrance had to be located away from the major intersection or Route One and Route 24; and that DelDOT has not yet given final approval of the proposed site plan.

Janice Burns was sworn in and testified in opposition to the Application and testified that she recalls the fuel spill; that she is concerned for the traffic pattern related to the gas station; that she is concerned about the water quality; that she is also concerned with any visibility issues the signs would create at the busy intersection; and that after review of the proposed plan she had no objection to the Application.

Tammy Rush and Mary Rush were sworn in and testified in opposition to the Application.

Tammy Rash testified that Mary Rash is the owner of Farmer Girl located on the adjacent property; that they are not in favor of the proposed location of the billboard; that the proposed billboard will only be four (4) feet from her mother's property line; that the area is already very congested; that the billboard is not needed; that Mary Rash was offered a large sum of money to place a billboard on her property; that due to the setback requirements she turned down the offer; that the billboard will be a distraction and safety hazard to the area.

Mary Rash testified that the billboard is a distraction and is not needed; that she welcomes the Royal Farms store; and that she has an issue with the side yard variance request.

The Board found that no parties appeared in support of the Application.

The Board found that eight (8) parties appeared in opposition to the Application.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the case be taken under advisement. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

At the conclusion of the public hearings, the Chairman referred back to this case. Mr. Rickard stated that he would move that the Board recommend approval of Special Use Exception/Variance Application No. 11518 for the requested special use exception based on the record made at the public hearing because the use does not substantially adversely the uses of the adjacent and neighboring properties and for the requested variances based on the record made at the public hearing and for the following reasons:

1. The three (3) road frontages make this property unique;
2. The variances are necessary enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicant;
4. The variances will not alter the essential character of the neighborhood;
5. The variances sought are the minimum variances necessary to afford relief; and
6. The variances represent the least modification of the regulations at issue.

Motion by Mr. Rickard, seconded by Mr. Mills, and carried unanimously that the special use exception and the variances be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, Mr. Mills – yea, and Mr. Callaway – yea.

The Board took a ten (10) minute recess.

Case No. 11524 – Clear Channel Outdoor, Inc. – southwest of Route One (Coastal Highway) approximately 0.25 mile southeast of Road 64 (Whitesville Road) (911 Address: 16218 Coastal Highway, Lewes, DE) (Tax Map I.D. 2-35-23.00-52.01)

An application for a special use exception to place an off-premise sign and a variance from the maximum square footage for an off-premise sign and maximum height requirement.

Mr. Lank stated that during the recess the Applicant submitted a letter to withdraw the Application.

Motion by Mr. Rickard, seconded by Mr. Hudson, and carried unanimously to move this case up on the Agenda. Motion carried 5 – 0.

Nancy Chernoff stated that she submitted a letter of withdrawal for Special Use Exception/Variance Application No. 11524 – Clear Channel Outdoor, Inc.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously to accept the withdraw request from the Applicant. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11519 – James Shelton and Leslie Shelton – south of Route 54 (Lighthouse Road) and being west of Maple Lane, approximately 1,074 feet south of Cedar Road and being more specifically Lot 40 within Keen-wik Subdivision No. 5 (911 Address: 38364 Maple Lane, Selbyville, DE) (Tax Map I.D. 5-33-19.16-38.00)

An application for a variance from the front yard setback requirement.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Charles Zonko, of Zonko Builders, was sworn in to testify about the Application. James Fuqua, Esquire, presented the case on behalf of the Applicants and submitted exhibits for the Board to review.

Mr. Fuqua stated that the Applicants are requesting a variance of 4.9 feet from the thirty (30) feet front yard setback requirement for a proposed dwelling; that Mr. Zonko is a contractor for the Applicants; that the Property is located in the Keen-Wik development; that the lot measures approximately 50 feet wide by 110 feet deep; that the proposed dwelling measures approximately 30 feet wide by 58 feet deep; that the proposed dwelling will comply with side and rear yard setback requirements; that the Property is subject to setback requirements from Sussex County and

Keen-wik Subdivision which are different; that the Sussex County front yard setback requirement is thirty (30) feet and Keen-wik Subdivision requires a twenty-five (25) feet front yard setback requirement; that Keen-wik Subdivision requires a twenty (20) feet rear yard setback and Sussex County has only a ten (10) feet rear yard setback requirement; that there have been numerous variances granted in the subdivision; that Keen-wik has evolved to a year-round community; that there are other dwellings in the subdivision only twenty-five (25) feet from the front yard property line; that the Keen-wik building committee approves of the proposed dwelling; that the situation is unique due to the small lot and the different setback requirements required by the restrictive covenants; that the variance is necessary enable reasonable use of the Property as it will enable the Applicants to build a house that is consistent with the neighborhood; that the proposed dwelling will be an upgrade; that the difficulty was not created by the Applicants; that the variance will not alter the essential character of the neighborhood; that the dwelling will be similar to other homes in the neighborhood including two (2) homes nearby and that the variance is the minimum variance to afford relief.

Mr. Zonko, under oath, confirmed the statements made by Mr. Fuqua.

Mr. Workman recused himself from participating in the discussion of this case due to a conflict of interest.

Elma McCabe, Ronald McCabe and Troy McCabe were sworn in and testified in opposition to the Application.

Ronald McCabe testified that he lives next door to the Applicant; that he believes the Applicants' lot is only 100 feet deep; that the proposed dwelling will block their view of the bay; and that all the dwellings on the street are lined up approximately the same distance from the front property line.

Ms. McCabe testified that her lot is a double lot adjacent to the Property.

Ronald McCabe testified that he would not object to the proposed dwelling if the dwelling was the lagoon side of the Property; that he believes his dwelling sits twenty-five (25) feet from the front property line but he is not sure; that his dwelling is in line with other dwellings on the street; that he does not object to the proposed dwelling if it is not farther into the front yard than his house and if dwelling does not block his view of the bay; and that the view of the bay is from his front yard.

In rebuttal, Mr. Fuqua, stated that the Applicants did not have the surveyor perform an average of the front yard setbacks for the area; and that the Applicants could provide a survey to show the average setback of the dwellings on the street.

Mr. McCabe testified that he can submit a survey of his property to the Board prior to the March 2, 2015 meeting.

The Board found that no parties appeared in support of the Application.

The Board found that three (3) parties appeared in opposition to the Application.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried to **leave the hearing open for the specific purpose of allowing survey to be submitted by the Applicants showing the average front yard setbacks of dwellings within three (300) feet of the Property on the street and/or the opposition to show the setback on Lot 41 and that the survey(s) must be submitted by February 23, 2015.** Motion carried 4 – 0.

The vote by roll call; Mr. Hudson – yea, Mr. Rickard – yea, Mr. Hudson – yea, and Mr. Callaway – yea. Mr. Workman recused himself from voting on this case.

Case No. 11520 – Robert J. Connery and Janet C. Connery – north of Route 26 (Vines Creek Road) and being southeast of Valley Court, approximately 139.28 feet northeast of Waverly Drive and more specifically Lot 16 within Waverly Subdivision (911 Address: 32298 Valley Court, Dagsboro, DE) (Tax Map I.D. 1-34-10.00-340.00)

An application for a variance from the rear yard setback requirement.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Robert Connery and Janet Connery were sworn in to testify about the Application. Raymond Tomasetti, Esquire, presented the case on behalf of the Applicants.

Mr. Tomasetti stated that the Applicants are requesting a variance of 2.5 feet from the twenty (20) feet rear yard setback requirement for an existing lean-to on a detached garage; that the Applicants recently purchased the Property; that the previous owners built the lean-to; that the lean-to was attached to the existing detached garage for safety reasons; that the lean-to has an existing plywood floor; that the Property has a unique diamond shape; that the garage and lean-to were placed in their existing location due to the location of the existing septic system and well on the Property; that the variance is necessary to enable reasonable use of the Property; that a safety issue would likely arise if the lean-to was detached from the garage; that the lean-to was built sometime after 2002; that the difficulty was not created by the Applicants but by a prior owner; that the variance will not alter the character of the neighborhood; that the variance will not impair the uses or development of adjacent property; that the lean-to has been in its present location for many years; that the variance requested is the minimum variance to afford relief; that the use is

not detrimental to the public welfare; and that the variance represents the least modification of the regulation at issue.

Mr. & Mrs. Connery, under oath, confirmed the statements made by Mr. Tomasetti.

The Board found no parties appeared in support of or in opposition to the Application.

Mr. Hudson stated that he would move that the Board recommend approval of Variance Application No. 11520 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The diamond shaped Property is unique;
2. The Property cannot otherwise be developed in strict conformity of the Sussex County Zoning Code;
3. The exceptional practical difficulty was not created by the Applicants;
4. The variance will not alter the essential character of the neighborhood; and
5. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the variance be **granted for the reason stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Rickard – yea, Mr. Workman – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Case No. 11521 – Judith Ann Wharton – northeast of Route 113 (DuPont Highway) approximately 2,300 feet northwest of Route 26 (Clayton Street in Dagsboro) (911 Address: 28085 Wharton Pond Lane, Dagsboro, DE) (Tax Map I.D. 2-33-10.00-33.00)

An application for a special use exception to place an off-premise sign and a variance from the distance from a dwelling requirement.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Judith Ann Wharton was sworn in to testify about the Application. David Hutt, Esquire, presented the case on behalf of the Applicant and submitted exhibits for the Board to review.

Mr. Hutt stated that the Applicant is requesting a special use exception to place an off-premise sign and a variance of 100 feet from dwellings of other ownership; that the Property is located along Route 113 south of Millsboro but north of Dagsboro; that the Applicant purchased the Property in 1980; that the Applicant previously owned Woody's Gun Shop on the Property; that a used car lot known as Wheelz-R-Us is currently on the Property; that the Property is zoned

commercial; that the proposed billboard will be a steel monopole structure designed to withstand winds of 90 miles per hour; that there are dwellings located to the north and south of the Property which fall within 300 feet of the billboard; that the Applicant has contacted the neighbors and has their support for the Application; that the Property has been used commercially for over twenty (20) years; that the Savannah Square Shopping Center is located south of the Property; that there are other billboards in the area along Route 113; that the use will not substantially adversely affect the uses of surrounding and adjacent properties; that the Property is unique in shape; that the variances are necessary enable reasonable use of the Property; that the difficulty was not created by the Applicant, since she cannot control where the neighboring dwellings were placed; that the variance will not alter the character of the neighborhood; that the variance is the minimum variance to afford relief; and that the use is not detrimental to the public welfare.

Ms. Wharton, under oath, confirmed the statements made by Mr. Hutt.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Rickard stated that he would move that the Board recommend approval of Special Use Exception/Variance Application No. 11521 for the requested special use exception based on the record made at the public hearing because the use does not substantially affect adversely the uses of the adjacent and neighboring properties and for the requested variance based on the record made at the public hearing and for the following reasons:

1. The shape of the Property is unique;
2. The variance is necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicant;
4. The variance will not alter the essential character of the neighborhood; and
5. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the special use exception and the variances be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11522 – Michael Kratz and Caitlin Kratz – east of Road 270A (Munchy Branch Road) and being southeast corner of Chesapeake drive, approximately 100 feet north of Beachfield Drive and being more specifically Lot 1 Block C within Beachfield Subdivision (911 Address: 110 Chesapeake Drive, Rehoboth Beach, DE) (Tax Map I.D. 3-34-13.00-520.00)

An application for a variance from the front yard setback requirement.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Sherry Nowicki was sworn in to testify about the Application. Chad Meredith, Esquire, presented the case on behalf of the Applicants.

Mr. Meredith stated that the Applicants are requesting a variance of 1.4 feet from the thirty (30) feet front yard setback requirement for an existing dwelling; that the Beachfield Subdivision was created in 1973; that a recent survey revealed that the northeast corner of the dwelling encroached into the front yard setback area; that the existing shed has been moved; that the Applicants purchased the Property in December 2014; that the existing dwelling was built in 1974; that the detached garage was built in 1975; that an addition to the garage was constructed in 1982; that most homes in Beachfield are similarly situated; that the prior owner obtained and provided copies of all building permits and certificates of compliances issued for all structures; that the Property is odd in shape as it fronts the curve of Chesapeake Drive; that the dwelling was built at an angle on the Property; that the front property line is curved; that it would be an exceptional practical difficulty to bring the Property into compliance now; that the Property cannot otherwise be developed in strict conformity to the Sussex County Code; that the variance is necessary to enable the reasonable use of the Property; that the exceptional practical difficulty was not created by the Applicants; that the use will not impair the uses of adjacent and neighboring properties; that the variance will not alter the essential character of the neighborhood as the need for the variance has not been noticed even though the structures have been on the Property for many years; that the use will not be detrimental to the public welfare; that the variance is the minimum variance to afford relief; and that the variance represents the least modification of the regulation at issue.

Sherry Nowicki testified that she is the listing agent for the Property; that the use will not have an adverse effect on the adjacent and neighboring properties; and that she confirms the statements made by Mr. Meredith to be true and correct.

Mr. Lank advised the Board that the shed has been removed from the Property.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11522 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The pie shaped Property is unique;
2. The variance is necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicants;
4. The variance will not alter the essential character of the neighborhood; and
5. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11523 – Kerry King – southeast of Road 66 (Pepperbox Road) approximately 300 feet northeast of Road 64 (Whitesville Road) (911 Address: None Available) (Tax Map I.D. 5-32-15.00-83.14)

An application for a special use exception to place a multi-sectional home type structure that is more than five (5) years old.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Tammy Hitchens was sworn in and testified requesting a special use exception to place a multi-sectional home type structure that is more than five (5) years old; that she is the Applicant's real estate agent; that the Applicant purchased a property with an existing manufactured home located thereon; that the Applicant built a single-family dwelling on that property; that he has purchased this property and would like to place the manufactured home from the other property on this property for use by an employee; that the manufactured home is a 2006 Fleetwood model; that there are older double-wide manufactured homes in the area; that there are wooden lots nearby as well; that the manufactured home will be skirted; and that the use will not substantially adversely affect the uses of the adjacent and neighboring properties. Ms. Hitchens submitted pictures of the manufactured home for the Board to review.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Hudson stated that he would move that the Board recommend approval of Special Use Exception Application No. 11523 for the requested special use exception based on the record made at the public hearing because the use does not substantially affect adversely the uses of adjacent and neighboring properties.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the special use exception be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Rickard – yea, Mr. Workman – yea, Mr. Mills – yea, Mr. Hudson – yea, and Mr. Callaway – yea.

Meeting Adjourned 10:30 p.m.

